RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1001293 SEPARATION DATE: 20020520

BOARD DATE: 20120222

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (91J, Medical Supply) medically separated for myofascial pain syndrome (MPS) in the right trapezius and rhomboid muscles. She was treated, but did not respond adequately to fully perform her military duties or meet physical fitness standards. She underwent a Medical Evaluation Board (MEB). Right shoulder and upper back pain were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions appeared on the DA Form 3947. The PEB found the CI unfit due to MPS, rated at 10%. The CI made no appeals, and was thus separated with 10% disability.

CI CONTENTION: The CI states, “SM was not rated for migraines, although I was diagnosed with them by Neurology at WRAMC in 1993 and was extensively treated for them prior and during the onset of MPS; therefore they should have been individually rated. Please review my records and you will see that migraines were one of the chief complaints of mine at the time of my discharge. I am aware that headaches can be associated with MPS/FM; however, I beg you to consider the fact that mine were a separate condition clearly proven by the fact that the onset of my migraines is well documented as occurring at least 9 years PRIOR to a diagnosis of MPS/FM. On page 6 of VA letter dated 20020424; the VA concurs with a diagnosis of Recurring migraine headaches. They too initially made the mistake of assuming that the headaches were associated with MPS/FM until I asked them to reconsider based on the evidence that I have just shared with you (see letter to VA Board). The result was that in 2005, they separately awarded me for migraine with aura based on the fact that they began in 1993. I ask that you please do the same. (*Exhibit C and B)* SM was not rated accurately for MPS/FM by the review board; I was rated 10% by PEB on 20020206 and then 40% by the VA on 20020214. (*Exhibit B & F)* MRI was ignored for degenerative cervical spondylitic. Finally, my PCM never referred me to mental health even though my mental actions and complaints warranted evaluation and contributed to my being unfit. In 20030728, the VA awarded me 70% for depressive disorder secondary to MPS/FM. It was a disservice to me that my ailments were totally and unjustly ignored or lowly rated. I am hoping that you will sincerely review my records and see that it was a combination of my physical and mental challenges of migraines, MPS/FM and depression that rendered me unfit for duty and adjust my rating accordingly. Thank You.” (*Exhibit E)*

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Army PEB – dated 20020206** | | | **VA (2 mos. after Separation) – All Effective 20020521** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Myofascial Pain Syndrome | 5099-5003 | 10% | Myofascial Pain Syndrome | 5099-5025 | 40% | 20020225 |
| ↓No Additional MEB/PEB Entries↓ | | | Urethral Diverticulum | 7599-7518 | 10% | 20020225 |
| Right Ankle Sprain | 5299-5271 | 10% | 20020225 |
| Seborrheic Dermatitis | 7899-7806 | 10% | 20020225 |
| 0% x 2/Not Service Connected x 1 | | | 20020225 |
| **Combined: 10%** | | | **Combined: 60%** | | | |

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed by the CI regarding the significant impairment with which her conditions continue to burden her. The Board is subject to the same laws for service disability entitlements as those under which the DoD Disability Evaluation System (DES) operates. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Department of Veterans’ Affairs (DVA). The Board’s authority resides in evaluating the fairness of DES fitness decisions and rating determinations at the time of separation. The Board also acknowledges the CI’s contention for service ratings for other conditions. While the DES considers all of the CI's medical conditions, compensation can only be offered for those conditions that cut short a service member’s career, and then only to the degree of severity present at the time of final disposition. The DVA, however, is empowered to compensate service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran’s disability rating should the degree of impairment vary over time.

Myofascial pain syndrome (MPS). The CI woke up one day with right-sided shoulder, upper back, and neck pain. There was no history of any specific injury or trauma. She was treated with medications and physical therapy (PT). However, in spite of treatment, the pain persisted. The CI was offered a trial of “trigger point” injections but she declined. She was issued a permanent profile and an MEB was initiated. At her September 2001 MEB exam, eight months prior to separation, the CI reported that her pain had both a dull and a sharp component, depending on her level of physical activity. Severity of the pain varied from two out of ten, to eight out of ten. The pain was exacerbated by running, carrying a rucksack, wearing a flakvest, or marching. Alleviating factors included rest, changing position, and stretching. She denied any radicular symptoms in the right arm. On exam, the CI had full range-of-motion (ROM) of her neck, upper back, and both arms. There was some tenderness to palpation (TTP) of her right trapezius muscle, and her right rhomboid muscle. Neurologic exam was normal. Plain x-rays of the neck and right shoulder were normal. At her February 2002 VA Compensation and Pension (C&P) exam, three months prior to separation, the CI reported that the pain had initially been only on the right, but had spread to involve the left side. She stated that the pain affected her concentration and sleep. On exam, there was TTP of the right trapezius and rhomboid, but no tenderness on the left. Neurological exam, including motor testing, was normal.

The Army PEB combined the right shoulder and upper back pain as a single unfitting condition. They called it MPS and coded it as 5099-5003 (analogous to degenerative arthritis). The VA also labeled the condition MPS, but they used code 5099-5025 (analogous to fibromyalgia). The Board carefully reviewed all available evidence. IAW the Veterans’ Administration Schedule for Rating Disabilities (VASRD) §4.71a, diagnostic code (DC) 5025 should be used for cases involving widespread musculoskeletal pain and tender points. Widespread pain means pain in both sides of the body, above and below the waist, affecting both the axial skeleton and the extremities. The Board determined that even though she did have some symptoms on the left, the CI’s condition primarily involved the right side of her body above the waist, and therefore did not qualify as widespread musculoskeletal pain. The Board determined that the most appropriate coding option was 5099-5021 (analogous to myositis). IAW VASRD §4.71a, cases involving DC 5021 should be rated based on limitation of motion of the affected parts. The Board determined that for the CI, her affected parts were primarily right shoulder and right neck.

Right Shoulder Pain. Even though the right glenohumeral joint itself was without pathology, the muscles of the right shoulder region were tender to palpation and painful with motion. Due to the pain, the CI could not lift anything greater than 20 pounds. As noted above, the severity of her pain varied, and the pain was exacerbated by running, carrying a ruck, wearing a flakvest, or marching. Her right shoulder ROM is summarized below.

|  |  |  |
| --- | --- | --- |
| Right Shoulder | Separation Date: 20020520 | |
| Goniometric ROM | C&P exam – 3 mos. Pre-Sep |  |
| Flexion (180⁰ is normal) | 140⁰ |  |
| Abduction (180⁰ is normal) | 140⁰ |  |
| §4.71a Rating | 10%\* |  |
| Comment | pain at the end of ROM (140⁰) |  |

\*10% based on §4.40 (Functional loss), §4.45 (The joints), and §4.59 (Painful motion)

Based on ROM alone, the right shoulder is essentially non-compensable, using VASRD shoulder and arm codes (5200 to 5203). However, IAW §4.40, §4.45, and §4.59: a rating of 10% is warranted when there is sufficient evidence of functional loss due to painful motion of a major joint. After due deliberation, considering all of the evidence, and mindful of VASRD §4.3 (reasonable doubt), the Board unanimously recommends a separation rating of 10% for right shoulder pain, appropriately coded 5099-5021.

Right Neck Pain. In like manner, the Board then considered the issue of right neck pain. At her September 2001 MEB exam, she had full ROM of her neck. Magnetic resonance imaging (MRI) of the neck showed some degenerative spondylitic changes. At her February 2002 C&P exam, there was some limitation of neck motion. The ROM measurements from that February 2002 exam are summarized below.

|  |  |  |
| --- | --- | --- |
| Cervical Spine | Separation Date: 20020520 | |
| Goniometric ROM | C&P exam – 3 mos. Pre-Sep |  |
| Flexion (45⁰ is normal) | 30⁰ |  |
| Combined (340⁰ is normal) | 245⁰ |  |
| Comments | pain at the end of ROM |  |

The VASRD coding and rating standards for the spine, which were in effect at the time of separation, were modified in September 2002, and then were changed again in September 2003. The older standards were subject to the rater’s opinion regarding degree of severity, whereas the current standards specify rating thresholds in actual degrees of ROM impairment. The Board must comply with the DoDI 6040.44 requirement for rating IAW the VASRD in effect at the time of separation from service. As noted above, the February 2002 C&P goniometric ROM exam had some limitation of motion. The Board considered that the values documented on her C&P exam were derived from reported pain threshold with motion during an exam performed in the context of expressly providing a basis for disability rating; thus possibly subject to some loss of objectivity. After due deliberation, the Board unanimously recommends a rating of 10% for right neck pain. It is appropriately coded 5290-5021 and IAW VASRD 4.71a, meets criteria for the 10% rating level (slight limitation of cervical motion).

Migraine Headaches. The CI had multiple episodes of headache over a 12 year period. They occurred infrequently, and there was insufficient evidence in the treatment record that the headaches significantly interfered with performance of her required military duties. She was not profiled for headaches, and they were not mentioned in the commander’s statement. All evidence considered, the Board cannot find sufficient evidence to support recommending migraine headaches as an additional unfitting condition.

Remaining Conditions. Several other conditions were also noted in the DES file. These other conditions were all reviewed by the action officer and considered by the Board. It was determined that none could be argued as unfitting and subject to separation rating. Additionally, depressive disorder, urethral diverticulum, right ankle sprain, and several other conditions were noted in her VA Rating Decisions (VARD) but were not documented in the DES file. The Board does not have the authority to render fitness or rating recommendations for any conditions not considered by the DES. The Board therefore has no reasonable basis for recommending any additional unfitting conditions for separation rating.

BOARD FINDINGS: IAW DoDI 6040.44, provisions of DoD or Military Department regulations or guidelines relied upon by the PEB will not be considered by the Board to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. In the matter of the right shoulder condition, the Board unanimously recommends a disability rating of 10%; IAW VASRD §4.40, §4.45, §4.59, and 4.71a. In the matter of the neck pain condition, the Board unanimously recommends a disability rating of 10%, IAW VASRD §4.71a. In the matter of the headaches, or any other conditions eligible for consideration; the Board unanimously agrees that it cannot recommend any findings of unfit for additional rating at separation.

RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of her prior medical separation:

|  |  |  |
| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Right Shoulder Pain, due to Myofascial Pain Syndrome | 5099-5021 | 10% |
| Right Neck Pain, due to Myofascial Pain Syndrome | 5290-5021 | 10% |
| **COMBINED** | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20101130, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Treatment Record

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President

Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

(TAPD-ZB / ), 2900 Crystal Drive, Suite 300, Arlington, VA 22202

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation

for XXXXXXXXXXXXXXXXXXXXXXXXXXX, AR20120004762 (PD201001293)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDBR) recommendation and record of proceedings pertaining to the subject individual. Under the authority of Title 10, United States Code, section 1554a, I accept the Board’s recommendation to modify the individual’s disability rating to 20% without recharacterization of the individual’s separation. This decision is final.

2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.

3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl XXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA